

## LABOUR DEPARTMENT

The 13th March, 1995

No. 14/13/87-6Lab./381.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No.—XIV of 1947), the Government of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Shahpur Co-operative Credit and Service Society Ltd. Shahpur (Ambala) *versus* Rajpreet Singh.

IN THE COURT OF SHRI S. R. BANSAL (ADDITIONAL DISTRICT & SESSIONS JUDGE),  
PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 347 of 89

SHRI RAJPREET SINGH SON OF SHRI TEJPAL SINGH, VILLAGE HALDAHERI,  
P. O. SAMALKHI, DISTRICT KURUKSHETRA .. Workman.

and

THE MANAGEMENT SHAHPUR COOPERATIVE CREDIT AND SERVICE SOCIETY  
LTD., SHAHPUR (AMBALA) .. Management.

Present :

Workman's Representative Shri R. Nath.

Management's Representative Shri C. L. Sharma.

## AWARD

In exercise of the powers conferred by clause (c) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947 (for short called as 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Rajpreet Singh and the management Shahpur Cooperative Credit and Service Society Ltd., Shahpur (Ambala) to this court for adjudication,—vide Haryana Government notification bearing no. 40067-71, dated 15th September, 1989 :—

Whether the termination of the services of Shri Rajpreet Singh is valid and justified ? If not so, to what relief is he entitled ?"

The workman raised an industrial dispute within the meaning of section 2-A of the Act by serving a demand notice dated 7th August, 1989 on the management. The conciliation proceedings were taken up by Labour Officer-cum-Conciliation Officer. The same however did not yield any desired result necessitating the making this present reference by the appropriate government to this court.

On receipt of the reference notices were issued to the workman as well as to the management. The workman appeared and stated that his demand notice may be treated as his claim statement. The stand of the workman in the demand notice claim statement is that he joined as clerk with the management on 13th April, 1988 and his services were terminated with effect from 28th July, 1989 without serving any chargesheet, prior, notice or payment of retrenchment compensation. The workman therefore demanded his reinstatement with continuity of service and back wages.

The management admitted that the workman joined as clerk on 30th April, 1988 but the plea raised is that his appointment was illegal and the management had all the powers to dismiss/ terminate his services which it did,—vide resolution dated 28th July, 1989. It was also pleaded that provisions of Industrial Disputes Act are not applicable in the present case and therefore no written notice were required to be given or any wages in lieu of notice was required to be paid. Similarly the workman is also not entitled to any retrenchment compensation. It was pleaded that the claimant is neither a workman nor the management is a industry. Further this court is also not entitled to decide to entertain and try the present claim.

The workman submitted replication controverting the allegations of the management in the written statement filed and reiterating those made in the demand notice/claim statement. On the rival contentions of the parties one of my learned predecessor Shri S.D. Anand,—vide his order dated 24th May, 1990 settled the under mentioned issues :—

(1) Whether the impugned termination of services of the workman is invalid ? OPW

(2) Whether the workman is entitled to any relief for the reasons stated in preliminary objection? OPW

(3) Relief.

Parties were permitted to lead evidence by way of affidavits. The applicant has submitted his own affidavit Ex. W-1, the affidavit of management is Ex. M-1. Ex. M-2 is the copy of resolution dated 12th April, 1988,—vide which it was resolved to appoint Shri Rajpreet Singh as clerk in the management society. Ex. W-2 and M-3 are the counter-affidavits of the parties respectively.

I have heard the representatives of the parties. My findings are as under :—

#### Issue No. 1 :

It has not been disputed that the claimant worked as clerk with the management-society from 13th April, 1988 to 28th July, 1989 which in any case is a period exceeding 240 days in a period preceding 12 months of his termination. The affidavit of the workman reveals that no chargesheet was served nor any enquiry was conducted. Similarly no prior notice or pay in lieu of such notice was given nor any retrenchment compensation was paid. No doubt it is mentioned in the affidavit of the management Ex. M-1 that the claimant was appointed illegally. He being the nephew of the Manager of cooperative society. But its assertions that it has powers to retrench/terminate the services of the workman without complying with the mandatory requirement of section 25-F of the Act is neither tenable or substantiated on the record. On the hand Ex. M-2 copy of resolution pleaded on the record shows that the workman was appointed on account of increase of the work load of the society. The affidavit of the workman shows that the pay of the workman was Rs. 400 per month. It is not clear as to how the claimant is not a workman and as to how the management is not an industry. Admittedly no chargesheet was served nor any enquiry was held and for that matter no retrenchment compensation was paid. In such a situation the termination of services of workman is illegal and he entitled to reinstatement with continuity of service and back wages. It will appropriate to mention at that stage that the workman made a statement which has been recorded separately in vernacular that he relinquishes his claim of the back wages to the extent of 50% provided the management is directed to pay him the arrears of back wages within a period to be specified by the court. In view of the statement made by the workman I, therefore, hold that the workman shall be entitled to back wages to the extent of 50% only from the date of serving of demand notice and further direct the management to pay the said amount of back wages within a period of 45 days from the publication of this award failing which the management shall render itself liable for payment of whole wages. The finding on this issues shall, therefore, stand returned in favour of the workman and against the management.

#### Issue No. 2 :

This issue has specifically been decided in my decision on issue No. 1. For the reasons stated above I hold that the claimant is a workman and the management is an industry within the meaning of Act and this court is fully competent to try and entertain the present claim application. The finding on this issue shall, therefore, stand returned against the management and in favour of the workman.

#### Relief :

In the end, it is held that the workman is entitled to reinstatement with continuity of service and back wages in the manner indicated above.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 2nd February, 1995

Additional District and Sessions Judge,  
Presiding Officer, Labour Court, Ambala.

Endorsement No. 154, dated the 7th February, 1995

Forwarded, (four copies) to the Financial Commissioner and Secretary to Government of Haryana Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,  
Presiding Officer, Labour Court, Ambala.